

# **Part I – The Schedule**

## **SECTION H**

### **SPECIAL CONTRACT REQUIREMENTS**

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

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## **SECTION H - SPECIAL CONTRACT REQUIREMENTS**

### **H.1 ORO H01 Consecutive Numbering (MAY 1997)**

Due to automated procedures employed in formulating this document, clauses contained within it may not always be consecutively numbered.

### **H.2 RESERVED**

### **H.3 ORO H05 Modification Authority (MAY 1997)**

Notwithstanding any of the other clauses of this contract, the Contracting Officer shall be the only individual authorized to:

- (a) Accept nonconforming work,
- (b) Waive any requirement of this contract, or
- (c) Modify any term or condition of this contract.

### **H.4 Oversight Of Contractor (SEP 2004)**

- (a) The parties recognize that DOE has entered into Contract No. DE-AC05-00OR22725 (hereinafter referred to as Contract OR22725) with UT-Battelle LLC (hereinafter UT-Battelle) and Contract No. DE-AC05-00OR22800 (hereafter referred to as Contract OR22800) with BWXT Y-12 LLC and DE-AC05-98OR22700 (hereafter referred to as Contract OR22700) with Bechtel Jacobs Company LLC (collectively Site Contractors) for the management and operation of Government-owned facilities located in Oak Ridge, Tennessee, at which the Contractor will be performing under this contract. The Contractor hereby agrees that while it is performing work at these sites it shall comply with applicable Federal, state and local laws, regulations, DOE orders and directions, and with the standards and procedures of the Site Contractors with respect to health, safety, environmental, quality assurance, and safeguard and security matters. The Contractor agrees that its responsibility to comply with the foregoing is not reduced by the oversight provided by the Site Contractors nor any of the Contractor's responsibilities assumed by the Site Contractors. The Contractor acknowledges that the performance by the Site Contractors is not intended to and does not reduce the Contractor's obligations, responsibilities, and/or accountability to DOE or any regulatory agency, including judicial body, responsible for audit, licensing, permitting, or other administrative review or adjudication capacity.
- (b) The Contractor agrees to cooperate fully and in good faith with DOE, UT-Battelle, Bechtel Jacobs, and BWXT Y-12 so as to enable the Site Contractors to perform their contractual obligations including evaluation of the Contractor's programs, procedures, systems, processes, and policies regarding health and safety, housekeeping, environmental requirements, radiation protection, security, quality assurance, industrial hygiene, criticality safety, and related

operations. In performing such evaluations, the Contractor agrees to allow the Site Contractors access to documents relating to the foregoing, including but not limited to policies; procedures; operating instructions; manuals; training programs; qualification of employees consistent with the Privacy Act; quality assurance program; accident reports; insurance reports and claim files; requests for proposals, bids, and other necessary procurement related documents from or to any Governmental agency relating to such matters; and reports whether generated by the Contractor, subcontractor, prospective subcontractors, or a third party relating to such matters.

- (c) The Contractor acknowledges that UT-Battelle, BWXT Y-12, and Bechtel Jacobs are authorized, under specified circumstances, to suspend work of the Contractor or deny the Contractor access to the Government's facility. The Contractor agrees to comply with any such direction.
- (d) The Contractor agrees to include in all subcontracts, which may include on-site work under this contract, a clause which will obligate such subcontractors to comply with the provisions of this clause and to impose these obligations on all their subcontractors or suppliers, at any tier, which involve performance of work on-site. As used in this clause, subcontractor(s) and subcontract(s) include such at any tier.
- (e) The parties will have to comply with the Project Integration and the Safety Management System (ISMS) at each site.
- (f) The provisions set forth herein are also applicable to all replacements to the above mentioned Contractors.

#### **H.5 Ordering Procedure (JUNE 2004)**

- (a) The Contractor shall incur costs under this contract only in accordance with this ordering procedure. No other costs are authorized without the express written consent of the Contracting Officer.
- (b) From time to time during the period of performance of this contract, Task Orders will be approved in writing by the Contracting Officer to the Contractor designating
  - (1) the task to be performed;
  - (2) the schedule of performance;
  - (3) authorized travel;
  - (4) not to exceed estimate of cost and DPLH; and
  - (5) any Government-furnished property.

Such Task Orders will specify deliverables and required delivery dates. Deliverables may consist of statements, charts, reports, briefing notes, tabulations, viewgraphs, and other forms of presentation as appropriate. If appropriate, based on 48 CFR 945, property which is Government-furnished or Contractor-acquired will also be listed in the property schedules of this contract as well as in the individual Task Orders.

- (c) The Contractor shall submit within ten (10) calendar days, after receipt of a request from a CTM, a one-time Contractor Task Plan. The Task Plan is the Contractor's overall estimate for the

completion of the Task Order and shall include the following:

- (1) Date of commencement of work, and any necessary revision to the schedule of performance.
  - (2) Direct Productive Labor-Hours (DPLH), both straight and overtime, (if authorized), on a monthly basis by applicable labor category, and the total DPLH, including those in paragraph (4) below, estimated to complete the task.
  - (3) The travel and material estimate.
  - (4) An estimate for subcontractors and consultants; including the DPLH, if applicable.
  - (5) Estimated computer use time required, if applicable.
  - (6) Other pertinent information, indirect costs, consultants, interdivisional transfers, etc.
  - (7) The total ceiling price, if applicable, for completion of the Task Order.
- (d) Task Orders will be issued on forms specified and provided by the Government. Task Orders will be numbered. A revision to a Task Order will be identified by a numeric designation following the existing Task Order number indicating the revision sequence.
- (e) Costs and DPLH shall be tracked by the Contractor for each task order. The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that either the costs or DPLH it expects to incur under a task order in the next 60 days, when added to all costs or DPLH previously incurred, will exceed 75 percent of the total costs or DPLH designated on the task order.
- (f) Orders shall be issued for completion only within the TERM OF CONTRACT, unless unexercised options to extend the term are available to the Government. In that event, any task period of performance is considered provisional unless the TERM OF CONTRACT is extended.
- (g) This ordering procedure is of a lesser order of precedence than the "Limitation of Cost," "Limitation of Funds," "Completion Dates," "Term of Contract," or "Level of Effort" clauses of the contract. The Contractor is not authorized to incur costs on Task Orders which are not in compliance with any of those clauses of the contract.

## **H.6 ORO H35 Safety And Health (MAY 1997)**

The Contractor shall take all reasonable precautions in the performance of the work under this contract to protect the safety and health of employees and of members of the public and shall comply with all applicable safety and health regulations and requirements set forth in 29 CFR Part 1910, Occupational Safety and Health Standards for General Industry, and 29 CFR Part 1926, Occupational Safety and Health Standards for Construction Industry. In addition, all workers shall wear eye and head protection that complies with American National Standards Institute (ANSI) Z87.1, Z89.1 and Z89.2 at all times while in designated construction or operational areas.

## **H.7 Security Qualifications (JUN 2004)**

Clearance Requirements: All Contractor employees shall be "Q", "L" or "BAO" cleared. For

employees requiring DOE "Q" or "L" security clearances, the Contractor shall not employ anyone who is not a citizen of the United States. (Clearance-Access authorizations are granted by the DOE pursuant to Title 10, Code of Federal Regulations, Part 710.) Security Badges must be worn properly at all times while working at any of the DOE facilities.

**Obtaining Clearances:** Prior to submitting individuals for clearance, the Contractor must screen individuals in accordance with an employee screening plan approved by the DOE Contracting Officer's Representative (COR). The certification by the Contractor to the COR of a favorable screening is required prior to employment. The screen shall include verification of identity, citizenship, previous employment and education and the results of credit and law enforcement checks. Clearances will be provided and paid for by DOE. The request for clearance and renewal of clearances must be justified based on actual job performance requirements.

**Maintenance of Clearances:** Security Badges will be furnished by DOE. Neither the Contractor nor its employees shall ever reassign badges to a different employee. The Contractor shall assure that badges are turned in for employees who are no longer working on this contract, for employees who no longer need access for whatever reason, or when a badge expires.

**DOE Human Reliability Program (HRP) Accreditation (Formerly PSAP):** Employees working within classified computing operations shall be able to acquire HRP accreditation in addition to a "Q" clearance.

The Contractor, on a case-by-case basis, will provide its own cleared escorts as needed. The COR/CTM will approve Contractor personnel for escort privileges and provide escort training.

## **H.8 ORO H55 Quality Assurance System Alternate I (MAY 1997)**

The Contractor shall establish and maintain a formal quality assurance program approved by the Department of Energy (DOE) that satisfies the requirements of DOE Order 414.1B. The quality assurance program shall encompass all areas of performance by the Contractor. If the Contractor has responsibility to perform activities in connection with a nuclear facility, as defined by Title 10, Section 830.3, Code of Federal Regulations, the applicability of the requirements in Section 830.120 shall be determined. Any subcontracts in support of this work shall require subcontractors to comply with the Contractor's approved quality assurance program.

## **H.9 Observance Of Legal Holidays (APR 2004)**

(a) The Site Contractors observe the listed days as holidays. The Contractor shall conform to holidays observed by the Site Contractors:

- New Year's Day,
- Martin Luther King Day,
- Good Friday,
- Memorial Day,
- Companion to Independence Day,
- Independence Day,
- Labor Day,
- Thanksgiving Day,
- Friday following Thanksgiving,
- Christmas Eve, and

- Christmas Day.

- (b) The Contractor agrees to continue to provide sufficient personnel to perform critical tasks already in operation or scheduled and shall be guided by the instructions issued by the Contracting Officer.

#### **H.10 ORO H63 Insurance (FEB 2000)**

- (a) Except as provided in subparagraph (b) immediately following, the Contractor shall provide and maintain:

TYPE OF INSURANCE	AMOUNT
Worker's compensation	\$100,000
Employer's liability	\$100,000
Comprehensive general liability (bodily injury)	\$500,000 per occurrence
Comprehensive automobile liability (bodily injury)	\$200,000 per person and \$500,000 per occurrence
Comprehensive automobile liability (property damage)	\$20,000 per occurrence

- (b) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; provided that, with respect to worker's compensation, the Contractor is qualified pursuant to statutory authority.

#### **H.11 ORO H65 Confidentiality Of Information (MAY 1997)**

- (a) To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:

- (1) Information which, at the time of receipt by the Contractor, is in public domain;
- (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
- (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
- (4) Information which the Contractor can demonstrate was received by it from a third party who

did not require the Contractor to hold it in confidence.

- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.
- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this clause, with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer.
- (d) The Contractor agrees that upon request by DOE it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.
- (e) This clause shall flow down to all appropriate subcontracts.

#### **H.12 ORO H75 Diversity Program (MAY 1997)**

- (a) The Contractor shall develop and implement a Diversity Program in support of the DOE Diversity Initiative. A Diversity Plan covering the full period of performance (base and option periods) shall be submitted to the Contracting Officer for approval within 60 days after the effective date of the Contract. Once the Diversity Plan is approved by the Contracting Officer, the Contractor shall implement the plan within thirty (30) days.
- (b) The Diversity Plan shall address, at a minimum, the Contractor's approach to ensure an effective Diversity Program (including addressing applicable Affirmative Action and Equal Employment Opportunity regulations) to include:

- (1) a statement of the Contractor's policies and practices;
- (2) planned initiatives and activities which demonstrate a commitment to a Diversity program including recruitment strategies for hiring a diverse work force.

The Diversity Plan shall also address, as a minimum, the Contractor's approach for promoting diversity through

- (1) the Contractor's work force,
- (2) educational outreach, including a mentor/protegee program,
- (3) stakeholder involvement and outreach;
- (4) subcontracting, and
- (5) economic development.

- (c) An annual Diversity Report shall be submitted pursuant to [Section J, Attachment B](#) entitled



"Reporting Requirements." This report shall provide a list of accomplishments achieved both internally and externally and projected developments during the current reporting period. The report shall also list any proposed changes to the Diversity Plan which shall be subject to Contracting Officer approval.

- (d) Failure on the part of the Contractor to develop and implement a Diversity Plan as required in this clause shall constitute a breach of this contract.

#### **H.13 ORO H95 Government Property Alternate I (MAY 1997)**

- (a) Only that property and data specifically included in the LIST OF GOVERNMENT PROPERTY, [Section J - Attachment A](#) (Appendices B-2.2 thru B-2.7, C-1 and C-2) to the contract, shall be furnished by the Government or acquired by the Contractor as a direct charge to this contract. The LIST OF GOVERNMENT PROPERTY indicates whether the property is to be Government-Furnished Property or Contractor-Acquired Property.
- (b) Any request from the Contractor to acquire direct charge property not listed in Section J as Contractor-Acquired Property shall include the following, where applicable:
  - (1) Sufficient details to justify and support the acquisition, including the itemized description and cost estimate.
  - (2) An analysis of the most economical method of acquisition (e.g, lease versus purchase).
  - (3) A description of the material equity arising from any proposed lease agreement to reflect any changes in the acquisition authorization.

The LIST OF GOVERNMENT PROPERTY shall be modified as appropriate to reflect any changes in the acquisition authorization.

- (c) The Federal Acquisition Regulation (FAR Subpart 45.5) prescribes the Contractor recordkeeping and reporting requirements for Federal contracts. The FAR reporting requirements apply to plant equipment having an acquisition cost of \$5,000 or more. In addition to these requirements, the Department of Energy requires the Contractor to use established DOE asset codes to identify Government property. The Contractor shall furnish an annual report, as of August 31 of each year for all Government property at subcontractor facilities. The report is due not later than 45 days after the end of the reporting period. The annual reporting requirement applies to capital equipment and real property acquired or disposed of during the period, by asset type. In addition, the annual report must include government-owned materials held in storage for issue when the balance on hand at the end of the reporting period amounts to \$50,000 or more. In most cases, only the beginning and ending balance shall be indicated on the report.

#### **H.14 ORO H100 Title To Equipment (MAY 1997)**

Pursuant to the clause of this contract entitled "Government Property (Cost Reimbursement, Time-and-Materials, or Labor-Hour Contracts)--Alternate I," title to equipment having an acquisition cost of \$5,000 or more, purchased with funds available for research and approved by the Contracting Officer prior to acquisition, shall vest with the Government.

**H.15 ORO H110 Automated Data Processing Equipment (ADPE) Usage (MAY 1997)**

Requirements for ADPE which were not included in the Contractor's original proposal may not be acquired (leased or purchased) without the prior written consent of the Contracting Officer. Whenever Contracting Officer written consent is required, the Contractor will furnish to the Contracting Officer information concerning the need for and selection of such ADPE, the specific make(s) and model(s), and the lease versus purchase determination.

**H.16 Software Made Available For Contractor's Use (SEP 2004)**

- (a) The Government or the Site Contractor, from time to time, make certain software acquired under license available to the Contractor for its use in the performance of this contract.
- (b) The Contractor recognizes and acknowledges that such software or data contained therein may be proprietary and confidential to a third party.
- (c) The Contractor agrees that it and its employees will not use, copy, disclose, modify, or reverse engineer such software except as permitted by the license and any other terms and conditions under which the software is made available to the Contractor.
- (d) The Contractor is not authorized to violate any software licensing agreement, or to cause the Government or Site Contractor to violate any licensing agreement. If, at any time during the performance of this contract, the Contractor has reason to believe that its utilization of Government- or Site Contractor- furnished software may involve or result in a violation of licensing agreements, the Contractor shall promptly notify the Contracting Officer, in writing, of the pertinent facts and circumstances. Pending direction from the Contracting Officer, the Contractor shall continue to perform to the full extent possible without utilizing the software in question.
- (e) Paragraphs (a) through (d) of this clause shall flow down to all subcontracts.

**H.17 ORO H120 Contractor Commitments, Warranties, And Representations (MAY 1997)**

Any written commitment by the Contractor within the scope of this Contract shall be binding upon the Contractor. Failure of the Contractor to fulfill any such commitment shall render the Contractor liable for any damages due the Government under the terms of this Contract. For the purposes of this Contract, a written commitment by the Contractor is limited to the proposal submitted by the Contractor, and to specific written modifications to the proposal. Written commitments by the Contractor are further defined as including:

- (a) Any warranty or representation made by the Contractor in a proposal as to hardware or software performance, total systems performance and other physical design or functioning characteristics of a machine, software package or system, or installation date;
- (b) Any warranty or representation made by the Contractor concerning the characteristics or items described in paragraph (a) above made in any publications, drawings or specifications accompanying or referred to in a proposal, and;
- (c) Any modifications, affirmation or representation as to the above which is made by the Contractor in or during the course of negotiations, whether or not incorporated into a formal amendment to the proposal in question.

**H.18 Subcontracts And Purchase Orders (JUL 2004)**

The Contractor shall, when ordered by the Contracting Officer, and may, but only when authorized by the Contracting Officer, enter into subcontracts in writing for the performance of any portion of the work described in the Performance Work Statement (PWS). Purchase orders shall not be entered into by the Contractor for items whose purchase is expressly prohibited by the written directions of the Contracting Officer. All subcontracts for the performance in whole or in part of the work described in the Statement of Work shall be submitted to the Contracting Officer for approval. The Government reserves the right at any time to require that the Contractor submit any or all other contractual arrangements, including but not limited to purchase orders or classes of purchase orders, for approval, and provide information concerning methods, practices, and procedures used or proposed to be used in subcontracting and purchasing. The Contractor shall use methods, practices, or procedures in subcontracting or purchasing which are acceptable to DOE. Subcontracts and purchase orders shall be made in the name of the Contractor, shall not bind nor purport to bind the Government, shall not relieve the Contractor of any obligation under this contract (including, among other things, the obligation properly to supervise and coordinate the work of subcontractors), and shall be in such form and contain such provisions as are required by this contract or as the Contracting Officer may prescribe.

Prior to the placement of subcontracts, the Contractor shall insure that:

- (a) They contain all of the clauses of this contract (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts;
- (b) Any applicable subcontractor Certificate of Current Cost or Pricing Data (see FAR 15.804-2);
- (c) Any required prior notice and description of the subcontract is given to the Contracting Officer and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.

**H.19 ORO H150 Representations, Certifications And Other Statements Of The Offeror (MAY 1997)**

The Representations, Certifications, and Other Statements of the Offeror, dated \_\_\_\_\_ for this contract are, by reference, hereby incorporated in and made a part of this contract.

**H.20 Right of First Refusal (APR 2004)**

The Contractor (including any teaming partners, subcontractors, and joint ventures) shall offer those employees employed in non-managerial positions on the effective award date and whose predominant assignment is the work described in the Performance Work Statement a Right of First Refusal for employment under this award in available positions for which they are qualified. The successful Offeror(s) (including any teaming partners, subcontractors, and joint ventures) shall determine the number and types of jobs to be filled, and the number of employees necessary for the efficient performance of the work and may elect to employ either fewer or more employees than are employed by the predecessor performing the work covered by the Performance Work

Statements. The Contractor (including any teaming partners, subcontractors, and joint ventures) will be provided a list of the incumbent's employees who have a Right of First Refusal.

The Contractor (including any teaming partners, subcontractors, and joint ventures) shall not offer employment for a non-managerial position on this award prior to having fully complied with the Right of First Refusal requirements. The successful Offeror (including any teaming partners, subcontractors, and joint ventures) shall make an express offer of employment to each employee of the incumbent transitioning work force, as provided herein, and shall specify a reasonable time (not less than 10 days from the receipt of an offer), within which the individual must accept such offer.

## **H.21 Pay and Benefits for Transitioning Employees (JUL 2004)**

Transitioning employees performing the Performance Work Statement (PWS) shall receive a pay and benefits package that is of total equal value, and is substantially equivalent in the aggregate, but may not necessarily mirror their previous pay and benefits.

If determined necessary, adjustments to proposed transitioning employee pay will be discussed and approved during the transition period.

On or before 45 days after contract award, the Contractor shall provide an actuarial valuation to the Department's satisfaction that the benefit package(s) offered the transitioning employees are of total equal value and are substantially equivalent in the aggregate to the pay and benefits the transitioning employees were receiving from their previous employers at the time of transition and recognizes the incumbent employee's company service as of the date of contract transition for the purpose of determining benefit eligibility. All benefits accrued and earned by the incumbent employees on the date of transition to the Contractor shall become "initial balances" for such employees who accept employment with the new Contractor. The Contractor shall also recognize the transitioning employees' company service for the purposes of determining their future eligibility for benefits (i.e., vacation entitlement, severance benefits, Family Medical Leave Act eligibility/entitlement, no waiting period for healthcare benefits eligibility, vesting in retirement plans, etc.)

The employee benefits listed at the end of this paragraph shall, at a minimum, be included as part of the Contractor's benefit package to ensure the pay and benefits provided to the transitioning employees are equivalent in total and substantially equivalent in the aggregate.

### Health & Welfare Benefits

Medical Plans  
Vision Service Plan  
Sick Leave  
Long Term Disability Leave  
Comprehensive Leave Program  
Accidental Death & Dismemberment Benefit  
Business Travel Insurance  
401 (K) Savings Plan

### Other Benefits

Paid Holidays  
Educational Assistance Program  
Employee Assistance Program  
Paid Vacation

## **H.22 Government-Furnished Property (Equipment)/Contractor Responsibilities (JUN 2004)**

The Government will provide office and special purpose space for Contractor's on-site employees. The Government will furnish all equipment and materials in reasonable quantities to the Contractor's on-site employees. Equipment and materials will include, but not be limited to:

- Office equipment including telephones, personal computers, printers, copying machines, and fax machines;
- Supplies and furniture including paper, pencils, desks, work tables, etc.

The property, while available for use by the Contractor's employees, remains under the ownership and accountability of the Government.

The cost of hardware, software, hardware and software maintenance and licenses, media items, materials and supplies (e.g., paper) and Government computing facility charges are covered by the Government with the following exception: it is the Contractor's responsibility to furnish infrastructure/toolsets for Tivoli (or equivalent) and for Remedy (or equivalent) for services included in [Section J, Attachment A, Appendices B and C](#).

Some Contractor employees will be required to locate off-site. The Contractor will be expected to provide local facilities, equipment (hardware and software), network connectivity, pagers, telephones, and cellular telephones and access as deemed necessary to perform the work assigned the Contractor that will be performed in Contractor facilities.

## **H.23 Clarification Between Drug-Free Workplace And Workplace Substance Abuse (JUL 2004)**

[Section I](#) includes FAR 52.223-6 Drug-Free Workplace (May 2001) that is applicable for employees not located at DOE facilities. It also includes DEAR 970.5223-4 Workplace Substance Abuse Programs at DOE Sites (Dec 2001) that is applicable to employees located at DOE facilities.

## **H.24 Laws, Regulations, and DOE Directives (JUL 2004)**

In performing work under this contract, the Contractor shall comply with the requirements of applicable federal, state and local laws and regulations (including DOE and NNSA regulations and directives), unless relief has been granted in writing by the appropriate regulatory agency. A list of Required DOE/NNSA Compliance Documents is provided in [Section J, Attachment E](#). The Contracting Officer has the unilateral right to change these documents. Any changes will be discussed with the Contractor.